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*** CURRENT THROUGH THE 2011 REGULAR SESSION AND UPDATES ***
*** FROM THE ARKANSAS CODE REVISION COMMISSION THROUGH ***
*** JUNE 2, 2011 ***

Title 23 Public Utilities and Regulated Industries
Subtitle 2. Financial Institutions And Securities
Chapter 40 Sale of Prepaid Funeral Benefits

A.C.A. § 23-40-122 (2011)

23-40-122. Cancellation.

A purchaser may cancel or transfer a prepaid contract as provided under this section, whether revocable or irrevocable, or whether cash funded or funded by insurance or an annuity, at any time prior to performance of the contract by the seller, subject to the following conditions:

(1) In the case of a cash or trust funded prepaid contract:

(A) Prior to the death of the contract beneficiary, if the prepaid contract is revocable, the purchaser shall be entitled to receive a refund of not less than one hundred percent (100%) of all sums paid to the seller by the purchaser, not to exceed the contract price;

(B) After death, if the prepaid contract is revocable, the purchaser or his or her representative shall be entitled to receive one hundred percent (100%) of the amount paid to the seller by the purchaser, not to exceed the contract price; or

(C) If the prepaid contract is irrevocable, the purchaser shall not have the right to a refund of any funds paid by him or her or proceeds paid to the seller, but shall have the right to change the provider of the contract services and merchandise to a substitute provider, in which event the seller shall transfer to the substitute provider not less than one hundred percent (100%) of the amount paid to the seller by the purchaser, not to exceed the contract price;

(2) In the case of a prepaid contract funded by life insurance:

(A) Prior to the death of the contract beneficiary, if the prepaid contract is revocable, the purchaser shall have the right to receive not less than one hundred percent (100%) of the cash surrender value of the policy used to fund the prepaid contract, not to exceed the premium paid by the purchaser;

(B) After the death of the contract beneficiary, if the prepaid contract is revocable, the purchaser or his or her designee shall be entitled to receive not less than one hundred percent (100%) of the policy proceeds paid to the seller, not to exceed the original face amount of the policy; or

(C) (i) Prior to the death of the contract beneficiary, if the contract is irrevocable, the prepaid contract purchaser shall not have the right to a refund of any funds paid to the seller but shall have the right to change the provider of the prepaid contract services and merchandise to a substitute provider, in which event the seller shall assign or transfer to the substitute provider, as directed by the contract owner, the life insurance policy used to fund the prepaid contract or funds in an amount not less than one hundred percent (100%) of the cash surrender value of the policy used to fund the prepaid contract, not to exceed the premium paid by the purchaser.

(ii) After the death of the contract beneficiary, the seller shall transfer to the substitute provider not less than one hundred percent (100%) of the policy proceeds paid to the seller, not to

provider not less than one hundred percent (100%) of the policy proceeds paid to the seller, not to exceed the original face amount of the policy; or

(3) In the case of a prepaid contract funded by an annuity:

(A) Prior to the death of the contract beneficiary, if the prepaid contract is revocable, the purchaser shall be entitled to receive a refund of not less than one hundred percent (100%) of the annuity value, not to exceed the premium paid by the purchaser for the annuity funding the prepaid contract;

(B) After the death of the contract beneficiary, if the prepaid contract is revocable, the purchaser or his or her designee shall be entitled to receive not less than one hundred percent (100%) of the annuity proceeds received by the seller, not to exceed the premium paid by the purchaser; or

(C) (i) Prior to the death of the contract beneficiary, if the prepaid contract is irrevocable, the purchaser shall not have the right to a refund of any funds paid to the seller but shall have the right to change the provider of the prepaid contract services and merchandise to a substitute provider, in which event the seller shall assign or transfer to the substitute provider, as directed by the contract owner, the annuity policy used to fund the prepaid contract, which shall be in an amount of not less than one hundred percent (100%) of the annuity value, not to exceed the premium paid by the purchaser.

(ii) After the death of the contract beneficiary, the seller shall transfer to the substitute provider not less than one hundred percent (100%) of the annuity proceeds received by the seller, not to exceed the premiums paid by the purchaser.

HISTORY: Acts 1995, No. 852, § 12; 2003, No. 987, § 5[4].